IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/03/2004

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

Writ Petition Nos.8308 of 2001
and 15642 of 2001

Tmt.T.Indra .. Petitioner in W.P.8308
G.Panneerselvam .. Petitioner in W.P.15642

-Vs-

The Member Secretary
Chennai Metropolitan Development
Authority, Egmore, Chennai-8. .. Respondent in both W.Ps.

PRAYER: Writ Petitions under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus and a Writ of Mandamus respectively for the relief as stated therein.

For Petitioners : Mr.V.Chandrakanthan (W.P.8308)
Mr.D.S.Rajasekaran (W.P.15642)

For Respondent : Mr.N.Sampath

:O R D E R

By a resolution dated 6.7.1999, the respondent authority prescribed the age, qualification and method of recruitment for the post of Law Officer Grade II, which reads as follows,

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Name of the Category	Method of Recruitment	Qualifications/ Experience (for direct recruitment only)	Age
Law Officer Grade-II	i) By direct recruitment ii) By transfer of service	For Direct Recruitment Must be a Law Graduate and must have 3	

from the years bar
category of experience.
Superintendent
or Assistant. For Promotion 35 years

Must be a Law
Graduate and
must have served
as Superintendent/
Assistant for not
less than 10 years
in CMDA and must
have bar experience
of 2 years.
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2. Concededly, there is no provision under the above regulation to relax either of the above qualifications, prescribed for the post of Law Officer Grade II. Even though, both the petitioners possess the minimum educational qualification, namely Graduation in Law, they do not have experience in the Bar for two years, which is required for the recruitment to the post of Law Officer Grade II by promotion.

3. The request of the petitioner in W.P.No.8308 of 2001 was refused by the respondent Board by its proceedings dated 29.12.2000, and aggrieved by the same, the petitioner in the said writ petition has prayed for the issuance of a writ of Certiorarified Mandamus calling for the records relating to the order of the respondent dated 29.12.2000 rejecting the request for relaxation of bar experience of two years by quashing the same and further direct the respondent to appoint the petitioner as a Law Officer Grade-II since she is having experience in legal division in the Chennai Metropolitan Development Authority.

4. The case of the petitioner in W.P.15642 of 2001 was also not considered for want of two years bar experience, and aggrieved by the same the petitioner seeks to issue a Writ of Mandamus directing the respondent to appoint the petitioner as Law Officer, Grade-II in the respondent's office without insisting on two years bar experience.

5.1. Mr.Chandrkanthan, learned counsel for the petitioner in W.P.No.8308 of 2001, contends that since the petitioner belongs to Scheduled Caste community, the respondent ought to have relaxed the condition relating to the qualification and considered her for the post of Law Officer Grade II by way of promotion.

5.2. Mr.D.S.Rajasekaran, learned counsel for the petitioner in W.P.1 5642 of 2001 contends that since the petitioner has got educational qualification and as he was also an internal candidate, want of bar experience cannot be a ground to deny his right for promotion.

6. Per contra, learned counsel for the respondent authority invites

my attention to the regulation and points out that there is no provision for relaxing the qualification in either case.

7. After careful consideration of the submissions of both sides, I am of the considered opinion that it may not be proper for this Court, by exercising power of judicial review conferred under Article 226 of the Constitution of India, to direct the respondent to relax the qualification prescribed under the regulation, particularly when there is no provision for the same. That apart, when the employer insists for a minimum qualification, either relating to the educational qualification or experience, as the case may be, it may not be proper for this Court to interfere with such powers of the respondent. Otherwise, the efficiency expected by the respondent may not be achieved. Hence, both the writ petitions fail and they are dismissed. No costs.

Index: Yes
Internet: Yes

KST.

To

The Member Secretary
Chennai Metropolitan DevelopmentAuthority,
Egmore, Chennai-600 008.